

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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United States of America

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v.

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Matthew Okonkwo

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**Civil Action No.: 1:07cv1062-MHT
(CR. No. 1:06cr101-MHT)**

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

AFFIDAVIT OF RUSSELL T. DURASKI

Before me the undersigned attesting officer personally appeared

Russell T. Duraski, who first being sworn does depose and says as follows:

1. My name is Russell T. Duraski. I am over the age of nineteen years, am of sound and disposing mind, and have personal knowledge of the facts contained herein.
2. I am an attorney practicing in Montgomery, Alabama. I am licensed to practice in all of the state courts of Alabama and Georgia as well as the Federal Courts for the Middle District of Georgia, the Southern, Middle, and Northern Districts of Alabama, the Eleventh Circuit Court of Appeals and the United States Supreme Court.
3. I give this affidavit in response to the allegations of ineffective assistance of counsel filed by Mr. Matthew Okonkwo

and in compliance with the order of this Court, dated December 11, 2007.

4. I was appointed to represent Mr. Okonkwo in a criminal appeal from the Middle District of Alabama.
5. When I was appointed to represent Mr. Okonkwo he was being detained in the Autauga County, Alabama jail. According to my records I visited Mr. Okonkwo on March 26, April 12 and April 26, 2007. On my last visit I took a copy of the rough draft of the appellate brief with me. I mailed a final draft to Mr. Okonkwo on April 30, 2007.
6. When I met with Mr. Okonkwo he was very upset about two things. He was upset that Mr. Bruner (trial counsel) "Didn't let him testify at trial", and the statute of limitations issue.
7. I had read the trial transcript prior to meeting with Mr. Okonkwo and pointed out to him that there was a discussion between he and the Court wherein he was advised of his rights to testify or not testify and that he chose not to testify. This begins on page 53 of the trial transcript and runs through page 57. Based on this testimony by Mr. Okonkwo himself, there was no legitimate complaint with Mr. Bruner in this regard; therefore, it

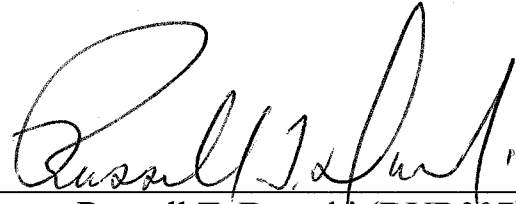
was not mentioned on appeal.

8. I further explained to Mr. Okonkwo that since there was nothing in the record before me that preserved any allegations of ineffective assistance by Mr. Bruner, I was limited in bringing up such issues on appeal.
9. As for the statute of limitations issues, I did discuss this matter with Mr. Bruner since there was nothing about it in the record. I also discussed it with the assistant U. S. Attorney and researched it myself. Based upon those discussions and my research I concluded that there was no legitimate limitations issue in this case. The Supreme Court in *United States v. Habig*, 390 U.S. 222, 88 S.Ct. 926 (1968) addressed the limitations issue in these types of cases in a ruling that was unfavorable to Mr. Okonkwo.
10. According to my notes, Mr. Okonkwo made other baseless allegations against Mr. Bruner, such as "he didn't come to see me", "he didn't give me discovery" or "he lied". None of those allegations gave rise to matters I could deal with on appeal.
11. Finally as for the deportation issue, all I ever said to Mr. Okonkwo about that was that I did not represent him on that and

could not help him with that matter.

12. If any further information is required please let me know.

13. Affiant sayeth further naught.

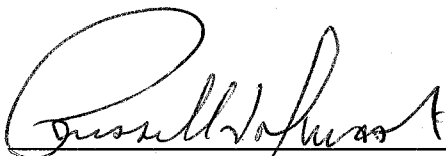
A handwritten signature in black ink, appearing to read "Russell T. Duraski", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on the parties shown below by placing a copy of the same in the U.S. Mail, properly addressed, and postage prepaid.

Done this 20th day of December, 2007.


Russell T. Duraski

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